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4 UNITED STATES DISTRICT COURT
5 WESTERN DISTRICT OF WASHINGTON
6 AT SEATTLE

7 ALLAH,¹

8 Plaintiff,

Case No. C17-1746 RSM-JPD

9 v.

10 PAUL SHERFEY,

ORDER DENYING MOTION TO
RECUSE

11 Defendant.

12 THIS MATTER comes before the Court on Plaintiff's Motion made to both the
13 Undersigned Judge and the Magistrate Judge to whom this case is currently assigned, seeking that
14 they recuse themselves from this case. Dkt. #7. This motion has been referred to the Undersigned
15 to the extent it seeks the Undersigned's recusal. For the reasons set forth herein, the Court DENIES
16 Plaintiff's motion.

17 Plaintiff has filed numerous Complaints in this Court.² Most recently before the
18 Undersigned, Plaintiff filed a Petition for Writ of Habeas Corpus claiming that a 2002 criminal
19 judgment is invalid because it does not name "Allah©" as the defendant. *See Allah v. Washington*
20 *Supreme Court, et al.*, Case No. C17-0458RSM, Dkt. #10 at 7-8. Plaintiff further claimed that the

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22 ¹ Mr. Allah files all pleadings in this Court under the name "Allah©".

23 ² At last count there were more than 30.

1 Washington Department of Corrections has no records naming “Allah©” as a defendant, and that
2 his current confinement is therefore unlawful. *See Allah v. Washington Supreme Court, et al.*,
3 Case No. C17-0458RSM, Dkt. #10 at 7-8. Plaintiff therefore asked that this Court compel the
4 judges of the Washington Supreme Court and the Washington Court of Appeals, Divisions I and
5 III, to dismiss the 2002 King County case “for lack of jurisdiction and malicious prosecution.” *Id.*
6 at 4.

7 After reviewing the Petition, the Honorable Mary Alice Theiler, United States District
8 Judge, determined that it was deficient in that Plaintiff failed to clearly articulate a viable
9 constitutional claim, and he failed to show that any constitutional claims pertaining to his 2002
10 judgment have been properly exhausted in the state courts. Judge Theiler also determined that the
11 Petition, even if it did identify a viable claim for relief, was likely barred by the federal statute of
12 limitations, 28 U.S.C. § 2244(d). Accordingly, on May 9, 2017, Judge Theiler issued an Order
13 directing Plaintiff to show cause why his Petition should not be dismissed as time barred. *Id.*, Dkt.
14 #11. Judge Theiler noted in the Order to Show Cause that although it is not entirely clear when
15 Plaintiff’s 2002 state court judgment became final, the materials available to this Court suggest it
16 was approximately 15 years ago, well beyond the one year limitations period set forth in 28 U.S.C.
17 § 2244(d). *Id.* After receiving Plaintiff’s response to the Order to Show Cause, Judge Theiler
18 issued her Report and Recommendation (“R&R”), recommending that this Court dismiss the
19 Petition as untimely. *Id.*, Dkt. #13 at 3.

20 On June 12, 2017, this Court entered an Order approving and adopting Judge Theiler’s
21 R&R. *Id.*, Dkt. #16. Accordingly, this action was dismissed as untimely and the certificate of
22 appealability was denied. *Id.* This matter was then closed.

1 Plaintiff then filed several supplemental briefs, including a Motion for Immediate Relief
2 and a Supplemental Rule 60 Motion. *Allah v. Washington Supreme Court, et al.*, Case No. C17-
3 0458RSM, Dkts. #18-#23. The gist of those motions appeared to be that this Court is not a real
4 court, the Judges are not real judges, Allah is a sovereign citizen not subject to the jurisdiction of
5 this Court, and Allah is God and therefore cannot be judged. *Id.* The Court denied the motions
6 and the matter remains closed. *Id.*, Dkt. #24.

7 Plaintiff now moves the Undersigned to recuse himself from this case based on his prior
8 Order adopting Judge Theiler's R&R, and other Orders on his cases in this Court. Dkt. #7 (in the
9 instant matter). With respect to the Undersigned, Plaintiff asserts that he is "a liar," a "devil" and
10 a "creep," and that because Plaintiff's state court judgments are invalid, the Undersigned will "lie
11 and dismiss [this] Case to save everyone and keep Allah©, illegally imprisoned by their Fellow
12 creeps." *Id.* at 2.

13 Pursuant to 28 U.S.C. § 455(a), a judge of the United States shall disqualify himself in any
14 proceeding in which his impartiality "might reasonably be questioned." Federal judges also shall
15 disqualify themselves in circumstances where they have a personal bias or prejudice concerning a
16 party or personal knowledge of disputed evidentiary facts concerning the proceeding. 28 U.S.C.
17 § 455(b)(1).

18 Under both 28 U.S.C. §144 and 28 U.S.C. § 455, recusal of a federal judge is appropriate
19 if "a reasonable person with knowledge of all the facts would conclude that the judge's impartiality
20 might reasonably be questioned." *Yagman v. Republic Insurance*, 987 F.2d 622, 626 (9th
21 Cir.1993). This is an objective inquiry concerned with whether there is the appearance of bias, not
22 whether there is bias in fact. *Preston v. United States*, 923 F.2d 731, 734 (9th Cir.1992); *United*
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1 *States v. Conforte*, 624 F.2d 869, 881 (9th Cir.1980). In *Liteky v. United States*, 510 U.S. 540
2 (1994), the United States Supreme Court further explained the narrow basis for recusal:

3 [J]udicial rulings alone almost never constitute a valid basis for a bias or
4 partiality motion. . . . [O]pinions formed by the judge on the basis of facts
5 introduced or events occurring in the course of the current proceedings, or of
6 prior proceedings, do not constitute a basis for a bias or partiality motion
7 unless they display a deep seated favoritism or antagonism that would make
8 fair judgment impossible. Thus, judicial remarks during the course of a trial
9 that are critical or disapproving of, or even hostile to, counsel, the parties, or
10 their cases, ordinarily do not support a bias or partiality challenge.

11 *Id.* at 555.

12 In the instant motion, Plaintiff fails to allege facts or behavior by the Court demonstrating
13 bias towards him. Plaintiff makes a passing reference that the Undersigned “is a Defendant” and
14 therefore shall recuse himself; however, the Court notes that only one Defendant has been named
15 in this action and that person is not a federal judge.

16 Accordingly the Court hereby finds and ORDERS:

- 17 1. Plaintiff’s Motion to Recuse (Dkt. #7) is DENIED to the extent it seeks recusal of the
18 Undersigned.
- 19 2. The motion remains pending with respect to the request that Judge Donohue recuse
20 himself, as that is a matter that Judge Donohue must initially address.
- 21 3. In accordance with LCR 3(e), this Order is referred to the Honorable Ronald B.
22 Leighton, the senior active judge in this District, for review of this decision.
- 23 4. The Clerk is directed to provide copies of this Order to U.S. District Judge Ronald B.
Leighton.

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2 DATED this 5th day of January 2018.

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5 RICARDO S. MARTINEZ
6 CHIEF UNITED STATES DISTRICT JUDGE
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